



**Town and Country Planning Act 1990 – Section 78
Town and Country Planning Appeals (Determination by Inspectors) (Inquiries
Procedure) (England) Rules 2020**

**Proof of Evidence (Planning Matters) on Behalf of Maidstone Borough Council by
Marion Geary MRTPI BA (Hons) Biology, PG Dip (Town & Country Planning)**

Planning Inspectorate Reference: APP/U2235/W/24/3351435

Maidstone Borough Council Reference: 23/504471/OUT

Appeal by: Catesby Strategic Land Ltd & The Master Fellows & Scholars of the College of Saint John The Evangelist in the University Of Cambridge

Location: Land At Moat Road, Headcorn TN27 9NT

Proposal: Outline application (with all matters reserved except access) for the development of up to 115 no. dwellings (Use Class C3) with 40% affordable housing including demolition of existing buildings, new means of access into the site from Moat Road (not internal roads), short diversion to the public right of way (KH590), associated highway works, provision of public open space, provision of shelter to replace curtilage listed building, emergency/pedestrian access to Millbank, and associated infrastructure including surface water drainage (with related off site s278 highway works to Moat Road).

Date of Inquiry: 26 February 2025

1. INTRODUCTION

- 1.01 My name is Marion Geary of Maidstone Borough Council. My qualifications are BA (Hons) Biology and a Post Graduate Diploma in Town and Country Planning from South Bank Polytechnic. I am a Chartered Member of the Royal Town Planning Institute.
- 1.02 I have over 30 years of experience in town planning working for local authorities. I have been Principal Planning Officer for Maidstone Borough Council (MBC) ("the Council") since 2018. I have advised on and determined applications for major developments, mainly large-scale housing and commercial developments.
- 1.03 I was the case officer for the application the subject of this appeal ("the Application"). I am familiar with the Appeal Site (as defined below) and surrounding area and have undertaken several detailed site inspections.
- 1.04 I provide evidence in this appeal on behalf of the Council on planning matters.
- 1.05 This Proof of Evidence should be read in conjunction with the evidence provided by Mr Peter Radmall of Peter Radmall Associates on landscape matters David Roberts of SCP Transport Planning on Transport Matters (and Janice Gooch on Heritage Matters I draw on their evidence in this Proof of Evidence. My evidence covers, inter alia, planning matters not covered by Mr Radmall, Mr Roberts or Ms Gooch.
- 1.06 In my evidence, I cover:
- The Appeal;
 - Appeal Site and its Context
 - Planning History;
 - Planning Policy Context and Relevant Legislation;
 - The Main Issues for the Inquiry;
 - Conclusion on relevant main issues and,
 - Planning Balance;
- 1.07 The evidence which I have prepared and provided for this appeal is given in accordance with the guidance of my professional institution. The opinions expressed are my true and professional opinions. Further, I understand my duty to the Inquiry and have complied, and will continue to comply, with that duty. I

confirm that this evidence identifies all facts which I regard as being relevant to the opinions that I have expressed. The Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed are correct.

2. THE APPEAL

- 2.01 The Appellant lodged an appeal on 6 September 2024, pursuant to section 78 of the Town and Country Planning Act 1990 ("TCPA 1990") against the decision of the Council to refuse the Application ("the Appeal"). By the Application, the Appellant had sought planning permission for the following description of development ("the Appeal Scheme") at Land At Moat Road Headcorn ("the Appeal Site"):

Outline application (with all matters reserved except access) for the development of up to 115 no. dwellings (Use Class C3) with 40% affordable housing including demolition of existing buildings, new means of access into the site from Moat Road (not internal roads), short diversion to the public right of way (KH590), associated highway works, provision of public open space, provision of shelter to replace curtilage listed building, emergency/pedestrian access to Millbank, and associated infrastructure including surface water drainage (with related off site s278 highway works to Moat Road).

3. APPEAL SITE AND ITS CONTEXT

- 3.01 A fuller description of the Appeal Site and its surroundings is provided by Mr Radmall. In the following paragraphs I provide a brief description of the Appeal Site.

Appeal Site

- 3.02 The Appeal Site measures 7.42ha of which 0.05ha is third party land being the access track to Mill Bank which is not in the ownership nor control of the appellant and 0.21ha is adopted highway land, (carriageway and verge). This leaves 7.16ha as the area of the site within the sole control of the appellant in terms of development.
- 3.03 The site has sloping topography with the northern portion sitting at a higher plateau and with the southern portion gently sloping down from the central tree / hedge belt towards Moat Road. The land south of Moat Road (outside of the appeal site) remains relatively flat within the river corridor.

- 3.04 Land to the west is agricultural in character with the exception of a substation to the south west. The rear of dwellings at Bankfields and Mill Bank form the eastern boundary of the site. Beyond the northern boundary are new dwellings at Wealden Way/Reeves Road. Existing access to the site is via an area of hardstanding off Moat Road in the South East corner of the site.
- 3.05 A field gate to the north east potentially connects to Mill Bank via a right of access along a track owned by a third party but there is no current access due to substantial undergrowth. A Public Right of Way (PRoW) (KH590) crosses the southern half of the site, starting at Moat Road and crossing to the north west, central boundary.
- 3.06 Most of the housing site lies in flood zone 1, albeit a small section of the south eastern corner is in flood zones 2 and 3. Parts of the adjacent Moat Road are within Flood Zone 3 as detailed in the Flood Risk Assessment (CD/1.20).
- 3.07 Part of a central tree belt is covered by a Tree Preservation Order (TPO) No.5 1986 as detailed in the Arboricultural Assessment (CD/1.36). Two ash trees and five oak trees which were originally part of the TPO in 1986 are no longer present. There are no records of an application to remove the trees nor any notification of their removal.
- 3.08 The Moat is a Grade II Listed former farmhouse (reference ID: 1060848), located to the south-east of the appeal site (list entry in Appendix 7 of CD/1.11). The appeal site does include its former agricultural buildings (part of the original farmstead), one of which is a pre-1948 structure that was within the curtilage of the Moat at the time of its listing in 1968. For these reasons, MBC has assessed it to be curtilage listed as detailed in Janice Gooch's evidence.
- 3.09 Within the northern portion of the site are potential remains of another heritage asset being the Royal Observatory Corps (ROC) Underground Monitoring Post which was built to monitor the effects of nuclear explosions during the cold war. The MOD confirmed the demolition, infilling and reinstatement process of the ROC when the site was decommissioned (Appendix 8 of CD/1.11)..

Relevant Planning History

- 3.10 22/505616/OUT Outline application (with all matters reserved except access) for the development of up to 120no. dwellings (Use Class C3) including demolition of existing buildings, means of access into the site from Moat Road (not internal roads), associated highway works, provision of public open space, emergency / pedestrian access to Millbank, realignment of the existing public right of way and

associated infrastructure including surface water drainage.

Withdrawn 28.03.2023

- 3.11 23/505693/LBC Listed building consent for the demolition of a potentially curtilage Listed structure related to Moat Farm.

Refused 08.02.2024

4. THE COUNCIL'S DECISION

- 4.01 The Council refused planning permission by decision notice dated 29 April 2024 (CD/4.1) for 6 reasons.

- 4.02 As detailed in the Council's statement of case (CD/5.2), the decision notice was issued after the Maidstone Borough Council Local Plan Review (LPR) for the period 2021-2038 has been adopted (CD/6.1) but before the 6 week period of potential legal challenge had expired.. Notice of 2 challenges were given in this period in regard of the garden settlements at Lenham Heathlands and Lidsing. Neither proceeded to Judicial Review.

- 4.03 As confirmed in the Statement of Case, I accept that the principle of development is now established due to the site allocation in the LPR. In particular, the appeal site is now allocated for approximately 110 homes, and is no longer in the "countryside" in planning terms and as defined in the LPR, being within the settlement boundary of Headcorn, designated as a Rural Service Centre. As a result, the Council has withdrawn Reason for Refusal (RfR) 1.

- 4.04 RfR 2 is maintained, albeit with some modifications (described below). My evidence will consider the issues identified in the context of the site allocation policy and its conditions, that being policy LPRSA310 (CD/5.1 Appendix A).

- 4.05 The adoption of the LPR does not impact on the substance of any of the other reasons for refusal. However, the policies from the 2017 Maidstone Borough Local Plan 2017 (CD/6.2) which were referred to in the decision notice have now been replaced. Therefore, all the reasons for refusal have been updated to reflect the new policies in the Maidstone Borough Local Plan Review 2024. The deletion of RfR 1 and amendment to RfR 2 have been approved under delegated authority which was appended to the Council's SoC (CD/5.2).

5. RELEVANT STATUTORY PROVISIONS AND PLANNING POLICY

Statutory provisions

- 5.01 I note and I am familiar with the provisions of sections 70 and 79 TCPA 1990, as well as section 38(6) of the Planning and Compulsory Purchase Act 2004 ("**PCPA 2004**"). These provisions are detailed in the Council's SoC, as such I do not repeat them here.

The Development Plan

- 5.02 The adopted Development Plan comprises:

- the Maidstone Borough Local Plan Review (LPR) (March 2024) (CD/6.1)
- the adopted Kent Minerals and Waste Local Plan 2013-30, as amended by the Early Partial Review (2020);
- Kent Mineral Sites Plan (2020).

Relevant policies

- 5.03 The Council has agreed a list of all relevant policies with the Appellant through the SoCG (CD/5.8). Of those policies, I consider that the most important policies for the determination of this appeal are:

Maidstone Borough Local Plan Review (LPR) (CD/6.1)

- Policy LPRSS1 – Maidstone Borough Spatial Strategy
- Policy LPRSP6 – Rural Service Centres
- Policy LPRSP6(C) – Headcorn
- Policy LPRSP12 – Sustainable Transport
- Policy LPRSP14(A) – Natural Environment
- Policy LPRSP15 – Principles of Good Design
- Policy LPRTRA2 – Assessing the Transport Impacts of Development
- Policy LPRSA310 – Land at Moat Road Headcorn
- Policy LPRHOU5 – Density of Housing Development
- Policy LPRSP13 – Infrastructure Delivery.

National Planning Policy

- 5.04 The relevant parts of the NPPF are listed in the Council's Statement of Case (CD/5.2). Paragraph 135 of the NPPF at the time of the decision and Statement of Case remains as paragraph 135 in the revised NPPF (December 2024).

Headcorn Neighbourhood Plan (HNP)

- 5.05 As detailed in the Planning SoCG (CD/5.8), there is no made Neighbourhood Plan for Headcorn which would thereby be part of the statutory Development Plan.
- 5.06 However, a consultation on a draft Regulation 16 version Plan was carried out between 24th June and 12th August 2024 (CD9.1). The draft HNP has been the subject of a series of questions from the Examiner in September 2024 (CD9.2). Headcorn PC responded in October 2024 (CD9.3). The Examiner's Report has been received by the Council but not yet published. The HNP's weight has therefore increased from no weight when the decision was made by MBC on the appeal scheme to limited weight now, and its weight may have further increased at the time of the Inquiry.

HNP Policy 1: Design policy for Headcorn

HNP Policy 2: Siting, landscaping and protecting the natural and historic environment and setting:

HNP Policy 3: Connectivity and access

HNP Policy 4: Infrastructure provision

HNP Policy 5: New dwellings

6. THE MAIN ISSUES

- 6.01 The updated/consolidated reasons for refusal referred to in the Council's Statement of Case (CD/5.2) were as follows:

1) The proposed development would cause unacceptable harm to the character and appearance of the local area, which lies in the Low Weald Landscape of Local Value, due to the visual prominence of the development in a semi-rural locality, which has not been adequately considered or respected in the design, layout and form of the development. The indicative sizes and number of dwellings mean that the development is unable to provide lower densities and built form on the western portion of the site to reflect its adjacency to open countryside. The proximity of dwellings to the southern and western boundaries, with intervening attenuation basins, results in a lack of sufficient space for landscaping to suitably mitigate and assimilate the development into the area and there are inadequate structural landscape buffers within and across the site from east to west to break up the massing and roofscape. The proposals will therefore result in a form of development inappropriate for the rural edge of Headcorn and be harmful to the local area which is contrary to NPPF paragraph 135

and policies LPRSP14(A) (part 1b), LPRSP15 (parts 2, 6 and 7) and LPRSA310 (parts 7 and 8) of the Maidstone Borough Local Plan Review 2024.

- 2) The demolition of the curtilage listed former Granary (Building 3) is contrary to the NPPF paragraphs 206(a) and 207, and policies LPRSP14(B) (parts 2 and 4) and LPRENV1 (parts 1 and 4) of the Maidstone Borough Local Plan Review 2024. There is substantial harm from loss of a heritage asset with no justification or mitigation for the loss with the absence of a satisfactory replacement structure that reuses any of the materials from Building 3.**
- 3) There is a lack of community gardens and an inadequate amount of natural and semi-natural open space in terms of public useability because the attenuation basins have not been demonstrated to be wet ponds and ecological habitat/mitigation areas would not be publicly accessible. Therefore, the proposal has not been demonstrated to comply with policies LPRSP13 (parts 2 and 8(c)), LPRSA310 (parts 25 and 26), and LPRINF1 (parts 1 and 2) of Maidstone Borough Local Plan Review 2024.**
- 4) There has not been a demonstration of safe pedestrian and cycle access when vehicles will use the Secondary Access route to the A274 during major flood events. There has not been demonstration of safe cyclist access to the A274 via the alterations to Moat Road. This would be contrary to the aims of sustainable development by securing good walking, wheeling and cycling infrastructure as set out in the NPPF paragraphs 108(c), 110(d), 114(a)(b), 116(a)(c), the objectives of Active Travel England, and policies LPRSP12 (part 3(b)(e)(k)), LPRSP15 (parts 1 and 11), and LPRSA310 (parts 18 and 20) of the Maidstone Borough Local Plan Review 2024.**
- 5) The development will result in significant additional pressure on Kent County Council infrastructure including primary and secondary education that is unlikely to be fully mitigated in the absence of a s106 legal agreement providing supplementary financial contributions to the Local Education Authority. This is contrary to policy LPRSP13 (part 1) of the Maidstone Borough Local Plan Review 2024.**

6.02 RfR 2 will mainly be dealt with in the Proof of evidence of Janice Gooch, Conservation Officer at Maidstone Borough Council.

6.03 RfR 4 will mainly be dealt with in the Proof of evidence of David Roberts of SCP Transport Planning

6.04 RfR 5 will in all likelihood fall away before the Inquiry commences as it includes matters being discussed between the parties and Kent County Council and should be resolved through a planning obligation subject to the agreement of all parties.

These would be discussed in the roundtable session on section 106/ obligations session.

6.05 The parties have liaised on an agreed condition that would mean RfR 3 would fall away. This is on the basis that it is demonstrated by the appellant via a revised indicative Open Space Performance Plan rev 15g (CD/2.4a) that they can provide the following quantum of publicly accessible open space on the appeal site on land that they control.

- At least 0.8ha of amenity green space which shall include children's play
- At least 1.9ha of natural/semi-natural open space (in which any SuDS attenuation basins must hold water year round)
- 0.25ha of community gardens in lieu of allotments

6.06 The appellant and the Council had already agreed that Sports provision can be via an offsite financial contribution. A number of existing sports clubs in the village have identified capital projects that could be funded in full or part by the appellant. This is further detailed in the CIL compliance Statement.

6.07 Based on the above, MBC is now potentially satisfied that the appeal scheme is capable of complying with policies LPRSP13 (parts 2 and 8(c)), LPRSA310 (parts 25 and 26), and LPRINF1 (parts 1 and 2) of Maidstone Borough Local Plan Review 2024.

6.08 Therefore, on the basis of an agreed revised Open Space Performance Plan, my evidence will mainly relate to issues raised within RfR 1 which remain uncommon ground between the principal parties to this appeal. I will however refer to open space and matters such as heritage and transportation where there is overlap with planning matters.

The Inspector's Main Issues

6.09 The Inspector's Summary Note of the Case Management Conference (CMC) (CD/5.4) confirms that there are 4 likely main topic areas:

- (i) Character and Appearance
- (ii) Heritage
- (iii) Highway Safety
- (iv) Planning (to include provision of Public Open Space)

6.10 Issue (ii) (Heritage) will be the subject of a roundtable discussion.

6.11 The focus of my evidence will be on issues (i) and (iv) and also (ii) and (iii) where they overlap with planning matters.

Policy Compliance

6.12 My approach to policy compliance will be in light of:

(i) the allocation LPRSA310 (which I accept means that certain impacts and consequences have been deemed acceptable) and

(ii) that the application is made in outline and the layout and plans submitted are illustrative, as the appellant is entitled to do. Therefore various matters which are relevant to compliance with LPRSA310 will fall for determination at a later stage of Reserved Matters (RM).

(iii) the policy context provided by the NPPF and general LPR policies such as LPRSP14(A) and LPRSP15

(v) Whilst acknowledging the Headcorn Neighbourhood Plan is a draft of limited weight at this point in time, the relevant emerging policies 1 and 2.

6.13 It is accepted that the concept of an outline permission means there is no requirement for the appellant to fully detail at outline stage how all issues highlighted in the NPPF and local policies LPRSA310, LPRSP14(A) and LPRSP15 would be met. There are clearly many permutations that could arise in a detailed layout that are not necessary for the LPA to know as fixed at the outline stage. In this regard, it is accepted that the illustrative layout (CD/2.1) is indicative.

6.14 However, it is necessary for certain key parameters of the proposal to be fixed at outline stage to ensure an acceptable detailed development can be achieved at RM stage. In this application, there was a Design and Access Statement (CD/1.8) supplemented by an Addendum (CD/1.9) which accompanied the revision of the scheme to up to 115 dwellings.

6.15 The DAS states building heights and their general distribution: being 2 storeys generally but with some bungalows/chalet bungalows.

6.16 The framework (parameter) plan (CD/1.2) and the indicative layout before the Inquiry need to evidence policy compliance, which is a requisite for permission, in order to demonstrate that an acceptable scheme can be achieved.

6.17 As mentioned above, the site area excluding third party land and adopted highway is 7.16ha. The indicative layout shows that the "development area" (housing parcels and access roads, driveways, parking bays etc) will take up over half of the

site. Surface water attenuation may take up more of the site than indicated, for reasons detailed later in this proof.

- 6.18 That leaves very limited flexibility in the remainder of the appeal site to arrive at a sensitive approach to structural landscaping, landscape screening, and otherwise to ensure that the appearance, layout and scale of the buildings and site are carefully thought through as necessary to comply with national and local design policy and guidance such as the National Design Guide and Maidstone Building for Life 12. The concern is that future scope to comply with detailed and general policy requirements for the allocation has not been demonstrated by the appellant.

Main Issue (i)

- 6.19 I adopt the findings of the expert witness instructed on behalf of the council, Mr Radmall in respect of these matters.. In light of those findings, I consider the degree of compliance with the NPPF para 135 and the policies cited in RfR2, namely LPRSP14(B), LPRSP15 and LPRS310 of the Maidstone Borough Local Plan Review 2024 (LPR) (CD6.1)) and draft Headcorn Neighbourhood Plan policies 1 and 2 (CD/9.1).

The Allocation policy LPRSA310

- 6.20 The context of this policy is that the LPR at paragraph 2.5 establishes the framework to guide future development of the borough. The LPR plans for (amongst other matters) homes and the environment. In particular, the LPR at paragraph 2.9 sets out the scale and distribution of development; identifies, by site, where development will be located; identifies where development will be constrained, and explains the infrastructure required to help deliver the plan.
- 6.21 The formulation of the LPR has required the Council to balance a number of factors, some of which are conflicting, including the goal of building more homes, as well as supporting the environment, including the substantial rural hinterland to the Borough. This reflects the strategic objectives underpinning the LPR, for example embracing growth and conserving the natural environment. In particular, spatial objective 10 (meeting housing need) explains that:

'The plan supports new housing in villages that meet local needs and is of a design, scale, character and location appropriate to the settlement and which supports the retention of existing services and facilities, a better mix and balance of housing will be provided, while the density and location of development will also be carefully considered.'

- 6.22 Headcorn is a Rural Service Centre which can provide for some development for a choice of deliverable housing locations and support for the role of the rural service centres. Accordingly, the spatial strategy for the Borough, as set out in Policy LPRSS1, identifies Headcorn as a location for *“the secondary focus for housing development with the emphasis on maintaining and enhancing their role”*.
- 6.23 Policy LPRSP6 concerns Rural Service Centres, including Headcorn, and provides that new development will be focused within settlements on allocated sites. In turn, Policy LPRSP6(C), concerning Headcorn specifically, identifies the Appeal Site as an allocation for *‘approximately 110 new dwellings’*.
- 6.24 Notably, the settlement boundary for Headcorn has been extended to encompass the Appeal Site. In the earlier Local Plan, the Appeal Site was entirely within the open countryside, outside of the settlement boundary. Accordingly, the settlement boundary for Headcorn now follows the southern and the majority of the western boundaries of the Appeal Site. (Figure 6-10 of the LPR page 102.) (CD/6.1)
- 6.25 Allocations are part of the spatial strategy: it is through the allocations – and specifically through the identification of what type and quantum of development will be permitted on each of the identified sites – that the spatial strategy controls the spatial distribution of development throughout the Borough. The allocation conditions strike a balance between growth and protection of the natural environment of the Borough at the local level. Overall as well as conditions within the allocation, the general LPR policies still need to be considered and given due weight in the planning balance.
- 6.26 The allocation policy is cross referenced in Policy LPRSP6(C) which sets out the infrastructure requirements for Headcorn:
- “4 Key infrastructure requirements for Headcorn include:*
- a. Improvements to highway and transport infrastructure, including junction improvements, a variety of measures to improve sustainable transport infrastructure and improvements to pedestrian and cycle access, in accordance with individual site criteria set out in policies H1(36) and LPRSA310;*
- b. Provision of a one form entry extension to Headcorn Primary School;*
- c. Improvements to open space which improve overall quality, and address forecast deficits of 1 hectare amenity, 1.1 hectares play, 7.7 hectares sports, 0.2 hectares allotment, and 30.2 hectares natural/semi-natural green space.”*

- 6.27 The Allocation itself is set out in detail in Policy LPRSA310. The Allocation should be read as a whole (as should the Development Plan), but the following are particularly material:
- (i) The Allocation establishes that the Appeal Site is an appropriate location for residential development.
 - (ii) The Allocation permits residential development "of approximately 110 dwellings" Notably, this is reiterated in both LPRSP6(C) as well as in policy LPRSA310.

Evolution of the Allocation Policy LPRSA310 in terms of landscape sensitivity.

- 6.28 The delegated report for the appeal proposal referred to the allocation being "landscape blind". To explain that statement, I will therefore detail how the allocation policy evolved through the LPR process and the consideration of landscape sensitivity.
- 6.29 The Maidstone Borough Local Plan 2017 (CD/6.2) was adopted in 2017 and its allocations had been informed by a Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015 (CD/8.4a) and Maidstone Landscape Capacity Study: Site Assessments- January 2015 (8.4).
- 6.30 This process was not replicated for the LPR with new or updated studies. Hence during the plan-making process for new allocations, the Council did not undertake landscape sensitivity testing nor detailed capacity testing by reference to landscape and visual effects: there was no site specific consideration of capacity based on landscape sensitivities. This has resulted in the detailed assessment of the appropriate quantum of development left for the planning application stage within the parameters set by the Allocation.
- 6.31 The "call for sites" process took place in March-May 2019. The appellant submitted a scheme for 165 units on the appeal site.
- 6.32 The LPR process contained no separate Landscape Assessment or Landscape Topic Paper. The Environment Topic paper (June 2020) (CD/8.31) refers to allocations as below and does not mention landscape character or sensitivity as issues.

Site Allocations Policies (Various) – many of these policies seek to ensure that appropriate air quality mitigation measures are brought forward as part of new developments. Where relevant, they also refer to mitigating ecological impacts of new developments. Also, many of these policies seek to ensure that development only occur outside flood zones, unless appropriate mitigation can be provided. Many policies include a requirement to protect the setting of

conservation areas. There are also many policies which seek to protect and enhance the setting of the Kent Downs AONB. Site allocations also include requirements for landscape buffers to protect ancient woodland.

6.33 The site was accepted as being allocated for approximately 127 dwellings in the Regulation 18(b) LPR in December 2020 (CD/8.5)

6.34 The rationale behind this was detailed in the Strategic Land Availability Assessment (SLAA) which was originally drafted in December 2020 (CD/8.2) and updated in September 2021 (CD/8.9). In regard of the issue of Landscapes of Local Value & Landscape Capacity it states:

"LLV status is a factor in how a site should be designed/ developed, it does not "in principal" (sic) preclude development of a site. How a site should be designed to complement the landscape features of the LLV will be addressed at detailed design stage. Each site is assessed used the conclusions in the Landscape Character Assessment (2012). This document reviews the borough (outside of the existing Maidstone urban envelope) and identifies its landscape character, condition, sensitivity, and capacity for change. This information should then be used to inform the design of developments across the borough. This approach primarily provides context for the potential design of a site, rather than considering its suitability for allocation. There are particular circumstances in which landscape is a primary reason for a site being considered unsuitable. Examples of this are:

- *Creating coalescence of two (or more) settlements;*
- *A site would unacceptably distort a settlement envelope within a particularly sensitive landscape context.*

Where this is the case a justification of the deduction to the site area or unsuitability of the site has been recommended"

6.35 In para 4.21 of the SLAA, it states that

"A constraint may be present which requires the design of future development on the site to be adapted to respond to the constraint – at a loss of development capacity on the site. In these cases a policy response requiring the development to respond to the identified constraint will likely be required, and a deduction to the modelled capacity of the site will be factored in"

6.36 There is a specific Site Assessments Proforma for LPRSA310 in the SLAA Appendix A (CD/8.9a) is. It considered the site with the following notes under landscape considerations:

MBLP Landscapes of Local Value *The Low Weald (100%) The design of any future development should be reflective of, and minimise impact on, the designated landscape.*

Landscape Character: *The Landscape Character Assessment identifies that the site is within the Headcorn Pasturelands landscape character area, which forms a part of the Low Weald landscape character type. The overall condition of the area is considered to be Good, and the sensitivity to be High, with an overall recommendation to Conserve.*

- 6.37 Both of the above statements are simply generic text for the Low Weald and Headcorn Pasturelands and are not site specific. Neither constraint has any text within the column titled "*Impact on developable land area/capacity/site suitability*". In terms of the conclusion to the Site Assessment, there were constraints deductions for Trees, Archaeology and Open Space. These specific constraints resulted in a revised modelled capacity of 116 units. There was no deduction made for the need for future development to be reflective of, and minimise impact on the Low Weald Landscape of Local Value. Similarly, there was no deduction for the Headcorn Pasturelands landscape character area having "*a high sensitivity to development, with an overall recommendation to conserve.*"
- 6.38 The text in the SLAA itself and the Site Assessment for LPRSA310 very clearly indicate that landscape was not considered in detail and the capacity modelled took no account of the landscape sensitivities on a general level and certainly not on a detailed level. In my view this explains the use of the word "approximately" in the allocations because there was simply no detailed analysis of how landscape sensitivities would affect the acceptable number of units on the site.
- 6.39 The site was allocated in the Regulation 19 Plan in October 2021 for approximately 110 dwellings (CD/8.6). The further reduction from 116 was explained in the Sustainability Appraisal (CD/8.3) as a 5% reduction for the TPO and a 15% reduction for Archaeology (the Royal Ordnance Corps post). Again, no reduction in approximate capacity for landscape sensitivity generally nor to accommodate any of the landscape based criteria within the draft policy
- 6.40 It has been confirmed by the Spatial Planning team that the wording evolved between Regulation 18b and Regulation 19 through a combination of consultation feedback and joint meetings between Spatial Planning and Development Management officers and the individual site promoters. No specialist landscape officers at MBC nor external consultants were involved in assessing whether the "approximate" allocation number was appropriate in landscape terms nor in formulating any detailed landscape criteria for the specific site allocation policy.
- 6.41 In fact, there was a landscape officer qualified in Landscape Impact Assessment in post at the Council at the time (until retirement in December 2022) but there are no records of her comments on the allocations nor was she asked to advise on the need for and/or to commission updated Landscape Capacity Studies for Sensitivity Assessments or Site Assessments. Therefore, there is no evidence of input from suitably qualified landscape impact experts in the assessment of acceptable capacity from a landscape point of view or advising on the wording of the policy criteria to reflect the landscape sensitivity of the site.

- 6.42 At the Examination into the LPR, the allocation was only discussed in the Stage 2 Hearings during Spring/Summer 2023. During that period, MBC had no landscape officer experienced in landscape impact assessment. As mentioned above, the postholder retired in December 2022 and her replacement was not in post until August 2023. In that period, the Heritage, Landscape and Trees team only consisted of officers for tree matters, heritage conservation and landscape planting conditions compliance.
- 6.43 As referred to above, no independent landscape impact advice was taken by MBC's Spatial Planning team. Therefore the Spatial Planning team's responses to the details within the Stage 2 Hearings were not informed by anyone with landscape qualifications. The Spatial Planning's team's responses were dealt with by a Development Management Officer who was seconded to the SP team during January 2023 - January 2024, specifically to assist with the site allocations stage of the LPR Examination.
- 6.44 In February 2023, the Inspector's Matters, Issues and Questions for the Stage hearing were published (CD/8.27). Matter 7 Issue 1 was "*Strategic policy and housing allocations for the Rural Service Centres*" and Question 7.13 asked if the proposed allocation and policy framework in LPRSA310 was "*justified and effective having particular regard to, inter alia, local landscape value.*"
- 6.45 The written response from MBC's Spatial Planning team (March 2023) (CD/8.37) was that the constraint of local landscape value was not "insurmountable" and impacts could be suitably minimised through the effective implementation of the proposed policy criteria. It is my view that this is referring to the Development Management stage being the appropriate stage for assessing the landscape impacts of any scheme.
- 6.46 MBC's Spatial Planning Officers further stated in that written response that in terms of the Low Weald LLV, they relied on the promoter's initial landscape impact assessment to assess landscape impacts. There was no reference to obtaining impartial landscape advice. It was further stated that mitigation in the form of significant landscaping on the west and north of the site will ensure an appropriate buffer between new development and the wider countryside and that site size allows for significant areas of landscape and biodiversity to be created. It is noted that there is no mention of the southern boundary which is the most important for reasons detailed in Peter Radmall's evidence.
- 6.47 Stage 2 Hearing Sessions were held for LPRSP6(C) and LPRSA310 on 18 May 2023. In regard of LPRSA310, the Kent branch of the CPRE (aka The Countryside Charity)

verbally commented that the site allocation represented overdevelopment of the village and mentioned the loss of the current "charming" approach to the village along Moat Road. The Development Management Officer seconded to the SP team advised that the site could provide screening to the west side which, in his opinion, was the sensitive edge to the countryside. There was no mention of the southern boundary which is equally or more sensitive in my view. Most of the time at the hearing spent discussing the site at the Examination Session was taken up by consideration of Flood Risk and the highway alterations to Moat Road.

6.48 In July 2023, the Inspector wrote to the Council following the Stage 2 Hearing Sessions (CD/8.38). He made no mention of Headcorn or policy LPRSA310.

6.49 In the Inspector's final report (March 2024) (CD8.1) he commented in para 293.

Land at Moat Road to the west of the village is allocated for approximately 110 dwellings at Policy LPRSA310. Whilst the site occupies gently rising land from the wider valley floor of the River Beult and its tributaries, development would occur against a backdrop of existing housing on higher land. Various requirements in the policy would be effective in seeking necessary landscaping and design responses to the local character.

6.50 The Inspector made no reference that the landscape assessment of the site being based upon the promoter's LVIA and not an independent or in house qualified landscape impact expert. Replies to his Q7.13 replies were not given by a person with landscape impact qualifications and in my view appear to be vague and inconsistent responses.

6.51 The Inspector made no modifications to either site allocation criteria or the estimated "approximate" capacity despite the acknowledged landscape sensitivity of this site.

6.52 The council does not criticise the Inspector or the process. However, my conclusion from the above is that the Inspector and the Spatial Planning team were effectively viewing the allocation's "soundness" in terms of being "Available/Suitable/Achievable". Therefore I do not consider that the site allocation process should curtail the Development Management stage (advised by qualified landscape impact experts) looking at the acceptability of an outline planning application's proposed capacity/development parameters in terms of detail of the impact on the surrounding rural area and its landscape in the national and local planning policy context.

Planning Application

- 6.53 The appeal application was submitted in October 2023, for up to 120 dwellings. Prior to the determination of the application, this was subsequently reduced to up to 115 dwellings in March 2024. The Main Modifications to the Local Plan Review (CD8.24) were being consulted on (September - November 2023). The draft site allocation in the was approximately 110 dwellings and the LPR was adopted with that indicative capacity in March 2024 (CD/6.1)
- 6.54 The appellant sought (and still seeks to) rely on the principle of development from that allocation but in my view does not have proper regard to the conditions of that allocation, the purpose of which is to inform the type and scale of development that will be permitted during the detailed assessment of a planning application.
- 6.55 Paragraph 1 of the Allocation specifies '*conditions*' which are '*to be met before the development is permitted*'. It is the conditions of LPRSA310 that reflect and seek to address landscape sensitivities.
- 6.56 The appeal submission has all matters of scale, layout and landscaping reserved. Before outline planning permission can be granted, there must be certainty at this stage that **all** the conditions can be met, whether through Reserved Matters and/or through discharge of conditions or s106 obligations. A failure to demonstrate that these conditions can be satisfied with the quantum of development proposed will cause a proposal to be in conflict with the allocation, even if it is for '*approximately 110 dwellings*', because it will not be able to deliver everything required in the allocation and respect the landscape sensitivity of the site and the rural locality. The Reserved Matters will need to be capable of complying with relevant local and national policies including the National Design Guide and Maidstone Building for Life 12.
- 6.57 It further follows that whilst the allocation anticipates a change in the character of the appeal site this is subject to ensuring that the adverse impacts of any development on the character and appearance of the area are minimised and mitigated so far as possible. This is particularly important given the sensitive edge of settlement location of the appeal site with countryside to the south and west and the visual prominence in the surrounding area; as well as the broader strategic imperatives to balance growth with the protection of the environment. The aims of LPRSA310 conditions 7 and 8 in particular are recognising the visual prominence of the site and the sensitivity of the location and requiring the development to respond to and minimise impact.

High Quality Design Policies

- 6.58 Paragraph 135 of the NPPF (CD/10.1) requires planning decisions to ensure that developments will function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding landscape setting; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
- 6.59 Policy LPRSP15 requires developments to '*create high quality design*' and to meet certain specified criteria. Those criteria include:
- In paragraph 2: responding positively to, and where possible enhancing, the local, natural character of the area. Particular regard should be paid to site coverage.
 - In paragraph 6: respecting the topography and responding to the location of the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area.
 - In paragraph 7, provide a high-quality design which responds to areas of heritage, townscape and landscape value or uplifts an area of poor environmental quality.
- 6.60 Regulation 16 draft Headcorn Neighbourhood Plan (HNP) policy 1 (CD/9.1) requires development to be designed to a high quality, which responds to the heritage and distinctive character of Headcorn and its rural environment specifically scale, spacing, layout and orientation, and the sensitive choice of the way in which new buildings and structures relate to the road.
- 6.61 Draft HNP policy 2 (CD/9.1) requires developments to not have a detrimental impact on the distinctive views within the village and of the surrounding countryside (particularly those identified in HNP Policy Map 12, or contributing to the character or appearance of the Headcorn Conservation Area or the significance of other heritage assets) that can be seen from public vantage points within and adjacent to the built up area of the village.
- 6.62 NPPF Paragraphs 139 (ensuring well designed developments) and 187 (contributing to and enhancing the natural and local environment) are also relevant.

- 6.63 The National Design Guide (CD10.2) is relevant. Paragraph 40 stipulates that 'well designed new development responds positively to the surrounding context beyond the site boundary.'
- 6.64 Maidstone Building for Life (CD/7.6)) is relevant in that schemes need to be able to create a place with a locally inspired or otherwise distinctive character, working with the site and its context.
- 6.65 In terms of the updated Reason for Refusal 1, whilst 115 no. dwellings can be "approximately" 110 dwellings, the Appellant has not demonstrated that the proposed development and its impacts are acceptable by reference to the conditions in LPRSA310 (**all** of which must be met), the Development Plan as a whole and the NPPF.

Assessment

- 6.66 The parameter plans in the application that would direct or inform future reserved matters applications (that may be submitted by a different developer) need to ensure that high quality design will be achieved and the conditions of LPRSA310 can be met with the quantum of development sought which is 115 dwellings.
- 6.67 The application was accompanied by an indicative layout drawing SKMP-01 (CD/2.1) which is taken as the appellant's attempt at showing how the scheme could be laid out with the 115 dwellings indicated. I interpret this as the material before the Inquiry that can be assessed as to whether all the conditions are capable of being met at RM stage.
- 6.68 The indicative layout drawing does not allow for adequate certainty that alternative arrangements and densities for a quantum of 115 dwellings could be submitted in conjunction with screening landscape buffers and structural landscaping needed to ensure the development is respectful of the rural locality and takes account of landscape sensitivity.
- 6.69 The Council is concerned that 115 dwellings cannot be accommodated on the site within a Reserved Matters scheme that does not compromise the need to comply with the National Design Guide and Maidstone Building for Life.
- 6.70 It is my view that it fails the following conditions of the policy.

Conditions 7 and 8

- 6.71 Condition 7 is "*Lower densities and built form on the western portion of the site shall reflect its adjacent to open countryside.*"

- 6.72 Condition 8 is *"The layout and form of buildings shall be designed to mitigate the rising topography with east west landscaping introduced to break up the overall visual massing"*
- 6.73 The appeal submission does not indicate sufficient E-W structural landscaping in the southern part of the site to screen development nor in the northern part of the site to soften and break up the impact of built development, particularly the roofscape.
- 6.74 The proposal for the main access and visibility splays and the proximity of the proposed large attenuation basins to the southern boundary, severely limits the space for a quantum and quality of new landscaping in the southern edge as these elements preclude any meaningful new tree planting in this location.

Attenuation Basin

- 6.75 Whilst appreciating that the appeal scheme is in outline and surface water drainage details are matters dealt with in Reserved Matters, it is something which needs to be factored in to an indicative layout at the outset because there can be a very significant land take when a "green" SuDS scheme is proposed and the location for attenuation swales, basins and ponds will often be the main factor dictating in the detailed layout design. In my experience, it is essential in this appeal case to be informed of generally where the attenuation basin(s) need(s) to be sited and generally what size and depth they need to be from a technical point of view. This is because of the direct impact on whether it will affect the compliance with the conditions of the allocation policy. These issues are also important to know at outline stage so that the impact on land available for other purposes such as landscape screening or public open space can be generally assessed.
- 6.76 I accept that surface water drainage is essential if the site is to be developed for housing (as per the allocation) and above ground SuDS are best practice where possible and given topography, the basins has to be at the bottom of the slope and realistically need to be in the south west corner.
- 6.77 However, the addition of these features will take up a very large part of the land in the southern part of the appeal site and thereby reduce scope for buffer screening and opening up more of the site to be viewed from the south.
- 6.78 The basins are indicated to be of a size that there is no realistic width for new landscaping to soften and break views from the south. Indeed, the limited landscaping indicated in this area are shown to be individual trees and not a meaningful buffer.

- 6.79 There is no detailed surface water drainage strategy in the application. The Flood Risk Assessment (CD/1.20) refers to permeable paving, swales and 3 detention basins. It states that the dimensions, volumes and location of the SuDS features will need to be revised as the masterplan develops and during the detailed planning stage. In my experience it is common for the land take of such features to be larger in a detailed strategy than indicated at outline stage. This is why the lead Local Flood Authorities routinely request that detailed surface water drainage strategies be pre-commencement conditions because there can be such a significant change between an outline and a detailed scheme, either due to incorrect assumptions or changing standards. In my view, there is limited contingency in the sketch layout masterplan to take account of the ramifications for landscape screening of the development if an even greater site area is needed for open SuDS than is indicated in the appeal scheme.

New Landscaping

- 6.80 Policy LPRSP14 (A) requires protection of positive landscape character, including Landscapes of Local Value, and avoid significant adverse impacts as a result of development through the provision of adequate buffers.
- 6.81 There is no indication of where there can be a quantum and quality of new landscaping in the southern and northern portions of the site to soften and break up the impact of built development viewed from the south and south west. The appeal submission does not include a specific detailed landscape strategy drawing.
- 6.82 What is expected from the allocation policy wording in condition 8 in my view is significant belts of trees traversing the site that would screen the development on the southern part of the site and break up the roofscape of the northern portion of the site. Significant belts of trees of width and height on an East-West line in would be needed to comply with condition 8. In my view, these would need to be indicated at least 15m in width to allow for 2 staggered rows of tree planting and adequate room for future final canopy and root spread. The appellant has not demonstrated that sufficient or adequately structural new landscaping can be provided (alongside 115 houses and all the other necessary infrastructure and public open space) to comply with the site allocation policy LPRSA310.
- 6.83 The Framework/parameter Plan (CD/1.2) sets no parameters for the type, form and location of structural planting that would be necessary to mitigate the impact of up to 115 houses and infrastructure vis a vis the specific landscape sensitivity of the site. As detailed above, significant belts of trees of width and height on both N-S and E-W lines across the site would be needed to comply with condition 8.

- 6.84 The appellant has not demonstrated that sufficient or adequately structural new landscaping can be provided to meet condition 8 (alongside 115 houses and all the other necessary infrastructure and public open space) to comply with the site allocation policy LPRSA310. These are key issues for development on an upwardly sloping and visually prominent site. The need to soften the visual impact of the appeal scheme requires effective breaking up the more visible expanse roofscape that is inevitable on a site with this topography.
- 6.85 It is my view that whilst landscaping can reasonably be addressed at RM stage where landscaping falls to be considered, it can be concluded now, on the basis of the material in the appeal, that the policy conditions are not capable of being complied with at RM stage.

Design Quality

- 6.86 In addition to LPRSP15 referred to above, draft HNP policy 1 (CD/9.1) requires development to be high quality, responding to heritage and distinctive character of Headcorn and its rural environment. This is specifically via layout and the way in which new buildings and structures relate to the road.
- 6.87 Whilst this is an outline scheme and the precise layout and density in various locations is for RM stage, the indicative layout drawing SKMP-01 (CD/2.1) is taken as the appellant's attempt at showing how a scheme for 115 dwellings could be laid out.
- 6.88 It is the only evidence presented by the appellant to evidence compliance with the conditions of LPRSA310 but shows a 115 unit scheme.
- 6.89 In terms of condition 7, the development in the south west quadrant are pockets of development at 30 dph. This is the indicative average development density across the whole site despite being in the most visually exposed part of the site, being immediately opposite the site entrance with the intervening gap being basins and not structural landscaping/screening. There is no indication that a layout for 115 units can bleed out to lower densities along the western portion of the site as is required by LPRSA310 (7). Adding 15m wide tree buffers to the southern edges of both the southern and northern portions of the site (as is essential in MBC's case to comply with condition 8), that would further increase the density of development of the south west quadrant.



Figure 1MG – Density in South West quadrant

- 6.90 Whilst it is accepted that density concerns would ordinarily be capable of resolution at RM layout/scale stages, it is my view that approval of the appeal scheme in which the indicative layout is the only document which sets “parameters” would be an endorsement of pockets of high density in an RM scheme where the allocation policy specifies lower densities and built form on the western portion of the site.
- 6.91 It is accepted that an RM layout/scale layout could show density across the site arranged differently (i.e. more evenly). It is my view that pockets of urban scale density would not be acceptable in any RM layout for an edge of village location and because it is shown in the **only** layout option presented by the appellant, that risks a high likelihood of poor layout design that would not be easily resolvable at RM stage if the appeal were allowed for up to 115 units.
- 6.92 The dwellings indicated which will be visible from the site entrance and the currently unscreened south east corner on the indicative layout would be an endorsement of a significant level of visually prominent built form at the site frontage, close to a sensitive southern boundary and eroding the existing rural edge to the village along Moat Road.
- 6.93 The area would be cramped and out of keeping for this edge of settlement location. The indicative layout (CD/2.1) appears to be driven by the appellant wishing to hit their target of housing numbers rather than evolving from good design and taking

account of conditions 7 and 8 of the allocation policy and general national and local planning policy.

- 6.94 Overall, it has not been shown that the impacts on the character and appearance of the area will be acceptable, nor that the development will respond positively to the rural setting of Headcorn.
- 6.95 The failure to comply with all the conditions of policy LPRSA310 and not to take account of NPPF para 135 and policies LPRSP14(A) and LPRSP15 will result in harm to the setting of the approach to the village and the character of the local area, causing the visual influence of the development to extend into the adjoining countryside in a way which exceeds what is necessary to deliver “approximately 110” houses. It has not been demonstrated that 115 houses can be laid out in a way which accords with paragraph 135 of the NPPF, policies LPRSP14(A) and LPRSP15 of the LPR and draft HNP policies 1 and 2 whilst also meeting all the conditions of LPRSA310. As a result the appeal scheme fails to accord with the Development Plan, read as a whole.

Main issue (iv)- Open space provision:

- 6.96 Conditions 24, 25 and 26 of LPRSA310 require provision of new open space on site in accordance with policies LPRSP13 and LPRINF1 but also specify not less than 1.9 hectares of semi natural /natural open space and not less than 0.8ha of open green amenity space incorporating children’s play.
- 6.97 The appellant has now amended their Open Space Performance Plan to revision 15g (CD/2.4a) which is now showing above the specified minimum quantum of the typologies which for amenity open space and semi-natural and natural greenspace also exceed what LPRINF1 would require for 115 dwellings. The Open Space Performance Plan rev 15g (CD/2.4a) is now indicating scope for 0.25ha of onsite community gardens in lieu of allotments. A potential off site contribution towards allotments was referred to in the appellant’s statement of case but Headcorn Parish as Allotment Authority would not be able to give capacity improvements at their existing facility. Therefore on site community gardens have been agreed in lieu. The quantum of 0.25ha exceeds a pro-rata amount of this typology which for 115 dwellings would be 0.06ha. However, to ensure a practicable and meaningful size of facility, 0.25ha has been agreed between the parties.
- 6.98 The appellant has agreed to provide financial contributions towards off site sports facilities in the village to the equivalent of 0.44ha. This does accord with condition 27 where, due to site characteristics, the scheme should make appropriate financial contributions towards off-site provision within the village to meet policy LPRSP13

and LPRINF1. Sports facilities would not be appropriate on this site due to its topography and location.

7. SUMMARY

- 7.01 The Appellant has embarked on and has continued a design process contrary to the clear expectations of the allocation and a very recently adopted development plan. Over time, they have proposed 165 units, 120 and 115 units on this site but have not carried out the design in line with paragraph 135 of the NPPF, policies LPRSP14 (A) or LPRSP15 of the LPR and draft HNP policies 1 and 2 nor the conditions of the allocation policy as the determinative criteria.
- 7.02 The proposed development conflicts with the Allocation and should not be permitted. The appellant appears to have viewed the quantum of development specified in the Allocation as a minimum and not accepted that a figure lower than 110 dwellings might be the only scheme that can satisfactorily accord with all the conditions of the allocation and the other policies in the Development Plan.
- 7.03 There is no need to read a housing number in the allocations as a minimum to secure the delivery of the anticipated dwellings over the plan period because it is likely that delivery of the allocations will balance out over the plan period. The use of the word 'approximately' makes clear it is NOT a minimum - otherwise it would say "at least".
- 7.04 There is no indication in the parameters plan of where there can be a quantum and quality of landscaping to soften and break up the impact of built development, as required by condition 8. It is my view that tree buffers of at least 15m wide are needed on East-West lines on both southern and northern parcels as well as the North-South line of trees along a spine road. These are key issues for development on an upwardly sloping and visually prominent site, to break up the more visible expanse roofscape that is inevitable on a site with this topography.
- 7.05 The Appellant has not demonstrated why more effective internal structural landscaping could not be incorporated into the Proposed Development if the quantum of development were reduced (whilst still being "approximately" 110 dwellings).
- 7.06 The width and locations of structural landscaping will be determined by the available space once the other elements (115 dwellings, access roads, required open space, SuDS etc) has been laid out. The landscaping will need to be sited on the land "left over" which will be consequently limited in my view and unable to secure the requirements of the conditions of the allocation.

7.07 It is the Council's case that both increased and more effective internal structural landscaping must be incorporated into the Proposed Development to accord with condition 8 of LPRSA310 but that would likely necessitate a reduction in quantum of houses in order not to further breach condition 7 of LPRSA310. That is also needed to comply with national and local policies which protect the landscape and character of rural areas. Furthermore, it is the Council's position that there is no good reason for the Appellant not to have reduced the quantum of the Proposed Development in order to effect this change to the Proposed Development's design.

8. MATERIAL CONSIDERATIONS WEIGHING AGAINST THE PROPOSED DEVELOPMENT

8.01 The failure to accord with paragraph 135 of the NPPF is also a matter which weighs against the grant of planning permission.

9. BENEFITS OF THE PROPOSED DEVELOPMENT

9.01 The Council acknowledges that the Proposed Development, if allowed, would give rise to planning benefits. These include:

- up to 115 new homes;
- 40% affordable housing provision;
- the provision of economic benefits in terms of construction jobs and local spend;
- the provision of a social benefit of public on-site open space and play areas

9.02 However, the Council disagrees with the Appellant as to the weight to be afforded to these matters and in any event does not consider that these matters are sufficient to outweigh the breaches of the development plan and the NPPF identified above, having particular regard to

(1) the limited evidence to support the claimed benefits;

(2) the fact that a number of the claimed benefits are in fact mitigation, not net benefits;

(3) the fact that a very similar package of benefits could be achieved by a development which accords with the development plan, such that any difference does not come close to justifying the departure from the policies referred to above; and

(4) the Council's strong track record of housing delivery.

9.03 Turning to each claimed benefit:

Provision of Housing/Affordable Housing

- 9.04 I afford the provision of market housing moderate weight and the provision of affordable housing significant weight.

Economic Benefits

- 9.05 The benefits include short-term employment benefits through the direct creation of construction jobs and additional household expenditure in the local area, a benefit of moderate weight.

Social Benefits

- 9.06 It is accepted that the appeal scheme does allow public access to the site beyond that which currently exists which is a social benefit of limited weight for the development as a whole.
- 9.07 There will be provision of public open space including children's play area, community garden and contribution towards sports provision. The open space provisions are necessary infrastructure to support the new housing, the need for which arises from the occupants of the new housing, so the provision is mitigation. The location of the site to the west of the village is such that use of the open space to the facilities by residents from the wider area are likely to be limited. Access would be either along a relatively long footpath on Moat Road (notably travelling away from the central "Days Green" open space in the village or via the access track at the north east corner which can be uneven and muddy and is unlit. The new neighbouring housing development to the north has its own on site open space and play area. I therefore give this benefit overall limited weight.
- 9.08 Protection of important landscaping features include TPO, mature trees and hedgerows is given limited weight.
- 9.09 Ecological enhancements including the delivery 90.18% biodiversity net gain (BNG) in area habitats and 20% net gain in hedgerows with regards to BNG. The application is exempt from Statutory Net Gain but is subject to policy BNG of 20% but the increase in habitats BNG would be given moderate weight.
- 9.10 The recording and preservation of Royal Observer Corps Station would be unlikely to happen without the appeal scheme so is given moderate weight.
- 9.11 The Archaeological recording of the Moat Farm complex is predicated on it being removed in its entirety in the appeal scheme. It is therefore considered to be mitigation not a benefit.

- 9.12 A replacement building incorporating existing fabric of the Granary to be used as a shelter within open space is predicated on it being demolished in the appeal scheme without justification in the opinion of the LPA. It is not therefore considered to be a benefit.
- 9.13 Contributions to education via the s106 agreement are mitigation for the needs generated by the development so are given limited weight.
- 9.14 Contribution towards improvements to the Public Right of Way network in terms of stile replacement, clearance, new signage is given limited weight bearing in mind the setting and user experience of the PROW is being urbanised.

10. HARMS OF THE APPEAL SCHEME

- 10.01 There is substantial harm from conflict with policies LPRSA310, LPRSP14(A) and LPRSAP15 as well as the draft Headcorn Neighbourhood Plan policies 1, 2 and 3
- 10.02 There is landscape harm from a lack of full compliance with LPRSA310 (8), relating to east/west landscaping, overall massing and rising topography. There is a harmful effect on the Low Weald area of Local Landscape Value from an absence of protection of positive landscape character and is contrary to 3 principles of good design in that it does not respond positively to, and where possible enhance, the local natural...character of the area", does not respect the topography nor does it provide a high-quality design which responds to areas of landscape value
- 10.03 There is substantial highways harm because the proposals do not bring the site forward in a sustainable manner, from a transport point of view, and will not achieve the goals of achieving modal shift by promoting safe, attractive and convenient access to the surrounding area, for all users and of all abilities.
- The right of way to the A274 to the north east falls far short of being an attractive, safe and convenient means of access to the site at any time, and does not provide a suitable alternative means of access to the site in the event of a flood, or other event, blocking the main site access on Moat Road.
 - The proposals do not comply with the policy requirements and do not fulfil the national or local policy aims that cycling should be made safe, attractive and convenient. With high traffic speeds, a relatively narrow carriageway, and no identified measures to protect cyclists along Moat Road,
- 10.04 There is substantial heritage harm in the proposed demolition of the Granary which is a curtilage listed building. In addition to being a Grade II heritage asset in its own right, the Granary by reason of its historic agricultural use has significance

because it forms part of the setting of Grade II listed Moat House due to an historic functional link. There has been no clear and convincing justification for total loss of the listed building, contrary to NPPF para. 207, 213 and 214.

- 10.05 In applying the heritage/planning balance required by para 214 of the NPPF, there are no public benefits at all from the total demolition of the Granary, judged to be a "substantial harm". The public benefit of new housing is not affected by the Granary remaining because all illustrative/indicative material shows the new housing to be over 50m from the Granary and so the loss of the listed building is not necessary to facilitate a residential development of the site in accordance with LPRSA310. The 4 criteria a)-d) inclusive listed in para 214 are not met.
- 10.06 If the Inspector were to conclude that the loss of the Granary is "less than substantial harm", in applying the heritage/planning balance required by para 215 of the NPPF, that harm is not outweighed by any public benefits of the proposal for the same reasons given above. The public benefit of new housing is not affected by the Granary remaining because all illustrative/indicative material shows the new housing to be over 50m from the Granary and so the loss of the building is not necessary to facilitate a residential development of the site in accordance with LPRSA310

11. CONCLUSION ON THE PLANNING BALANCE

- 11.01 For the reasons above, the Council submits that the Proposed Development fails to accord with the development plan, read as a whole, and the other material considerations in this case do not indicate that planning permission should be granted in conflict with the development plan. Accordingly, the Appeal should be dismissed.